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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/809,615	03/25/2004	Dennis J. Vaseloff	29178/37511	7227
4743	7590	12/13/2005	EXAMINER	
MARSHALL, GERSTEIN & BORUN LLP 233 S. WACKER DRIVE, SUITE 6300 SEARS TOWER CHICAGO, IL 60606			LA, ANH V	
			ART UNIT	PAPER NUMBER
			2636	

DATE MAILED: 12/13/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/809,615

Applicant(s)

VASELOFF ET AL.

Examiner

Anh V. La

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-32 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-32 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. ____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date 3/25/04.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: ____.

DETAILED ACTION

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 1-11, 13-22, and 25-32 are rejected under 35 U.S.C. 103(a) as being unpatentable over Neumark in view of Ostro.

Regarding claim 1, Neumark discloses a system comprising a plurality of information tags 30, each tag being disposed in physical corresponded with food 20 and including information about the food tray and a food product contained therein and a plurality of communication devices 60, 50, each communication device communicating with the information tags 30 when each information tag is located in proximity of each communication device. Neumark does not clearly disclose all food 20 on a food tray. Ostro teaches that a food tray is used for each type of food (column 3, line 60- col. 4, line 10). It would have been obvious at the time the invention was made to a person having ordinary skill in the art to include a food tray to the system of Neumark as taught by Ostro for the purpose of inventory and identification.

Regarding claim 2, Neumark discloses radio frequency tags 30.

Regarding claim 3, Neumark discloses data storage devices 30.

Regarding claim 4, Neumark discloses the communication devices reading and writing information on the tags.

Regarding claim 5, Neumark discloses a plurality of food devices, each food device receiving one or more of the food trays, and each food device including at least one of the communication devices (col. 5, lines 45-65).

Regarding claim 6, Neumark discloses a computing device 50.

Regarding claim 7, Neumark discloses a communication network 62.

Regarding claim 8, Neumark discloses a wired communication network (col. 6, lines 60-67).

Regarding claim 9, Neumark discloses a wireless communication network (col. 6, lines 60-67).

Regarding claim 10, Neumark discloses the communication devices communicating with each other (figure 1).

Regarding claim 11, Neumark discloses a programming device 50, 52.

Regarding claim 13, Neumark discloses a system comprising a plurality of information tags 30, each tag being disposed in physical corresponded with food 20 and including information about the food tray and a food product contained therein, a plurality of communication devices 60, 50, each communication device communicating with the information tags 30 when each information tag is located in proximity of each communication device, a computing device 50. Neumark does not clearly disclose all food 20 on a food tray and the system being used in a restaurant. Ostro teaches a system comprising a food tray being used for each type of food (column 3, line 60- col. 4, line 10) and the system being used in a restaurant (col. 6, lines 10-45). It would have been obvious at the time the invention was made to a person having ordinary skill in the

art to include a food tray and the system being used in a restaurant to the system of Neumark as taught by Ostro for the purpose of inventory and identification.

Regarding claim 14, Neumark discloses radio frequency tags 30.

Regarding claim 15, Neumark discloses data storage devices 30.

Regarding claim 16, Neumark discloses the communication devices reading and writing information on the tags.

Regarding claim 17, Neumark discloses a plurality of food devices, each food device receiving one or more of the food trays, and each food device including at least one of the communication devices (col. 5, lines 45-65).

Regarding claim 18, Neumark discloses the computing device 50 including inventory management capability.

Regarding claim 19, Neumark discloses a computing device 50.

Regarding claim 20, Neumark discloses a wired communication network (col. 6, lines 60-67).

Regarding claim 21, Neumark discloses a wireless communication network (col. 6, lines 60-67).

Regarding claim 22, Neumark discloses a programming device 50, 52.

Regarding claim 25, Neumark discloses a method comprising storing information about a food product contained in a plurality food trays on information tags, tracking information with a plurality of communication device 60, 50 communicating with the information tags 30 when each information tag is located in proximity of each communication device, updating the information (fig. 1). Neumark does not clearly

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disclose each food tray having at least one tag and the system being used in a restaurant. Ostro teaches a system comprising each food tray having at least one tag (column 3, line 60- col. 4, line 10) and the system being used in a restaurant (col. 6, lines 10-45). It would have been obvious at the time the invention was made to a person having ordinary skill in the art to include each food tray having at least one tag and the system being used in a restaurant to the system of Neumark as taught by Ostro for the purpose of inventory and identification.

Regarding claim 26, Neumark discloses a programming device 50, 52.

Regarding claim 27, Neumark discloses an identification information for the food tray and duration time (col. 6, line 60- col. 7, line 6).

Regarding claim 28, Neumark discloses reading the information on the tags with the communication devices (fig. 1).

Regarding claim 29, Neumark discloses storing the uncooked food product (fig. 2-4).

Regarding claim 30, Neumark discloses writing the information on the tags with the communication devices (fig. 1).

Regarding claim 31, Neumark discloses a computing device 50.

Regarding claim 32, Neumark discloses a computing device 50 providing restaurant operational and inventory information.

3. Claims 12, 23, 24 are rejected under 35 U.S.C. 103(a) as being unpatentable over Neumark in view of Ostro as applied to claim 1 above, and further in view of Bowers.

Regarding claims 12, 23, and 24, Neumark as modified by Ostro discloses all the claimed subject matters as set forth above in the rejection of claim 1, but does not disclose a mobile communication device. Bowers discloses the use of a mobile communication device (abstract). It would have been obvious at the time the invention was made to a person having ordinary skill in the art to include a mobile communication device to the system of Neumark (as modified by Ostro) as taught by Bowers for the purpose of communicating with the tags.

4. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Lareau discloses a monitoring and tracking of assets by utilizing wireless communications.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Anh V. La whose telephone number is (571) 272-2970. The examiner can normally be reached on Mon-Fri from 9:30am to 6:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jeffery Hofsass can be reached on (571) 272-2981. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



ANH V. LA
PRIMARY EXAMINER

Anh V La
Primary Examiner
Art Unit 2636

AI
November 21, 2005